

Pollution Control Hearings Board  
Shorelines Hearings Board  
Forest Practices Appeals Board  
Hydraulics Appeals Board



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STATE OF WASHINGTON  
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March 20, 1995

*ILW*

Andrew Kenefick  
HELLER, EHRMAN, WHITE  
& McAULIFFE  
6100 Columbia Center  
701 Fifth Avenue  
Seattle WA 98104-7098

Mary Sue Wilson  
Assistant Attorney General  
Department of Ecology  
PO Box 40117  
Olympia WA 98504-0117

*94AQ-1068*

RE: PCHB NO. 94-261  
RAYONIER, INC. v. DEPARTMENT OF ECOLOGY

Dear Parties:

Enclosed is the Stipulation and Agreed Order of Dismissal in this matter.

The efforts of the parties in reaching this settlement are appreciated.

Sincerely,

*William A. Harrison*

Hon. William A. Harrison  
Administrative Appeals Judge

WAH/jg/rayon

Enc.

cc: John Williams - Ecology

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PROCEEDINGS BEFORE THE WASHINGTON STATE  
POLLUTION CONTROL HEARINGS BOARD

RAYONIER INCORPORATED,

Appellant,

v.

WASHINGTON STATE DEPARTMENT OF  
ECOLOGY,

Respondent.

No. 94-261

STIPULATION AND AGREED  
ORDER OF DISMISSAL

COMES NOW Appellant, Rayonier Incorporated ("Rayonier") by and through its attorneys, Heller, Ehrman, White & McAuliffe and Andrew M. Kenefick, and Respondent, Washington State Department of Ecology ("Ecology"), by and through its attorney, Mary Sue Wilson, and hereby agree to the entry of this Stipulation and Order of Dismissal to resolve this appeal of Penalty No. DE 94AQ-I068 without incurring the expense, uncertainty and delay incident to further litigation and without admission of liability or conclusion of fact or law.

STATEMENT OF FACTS

1. Rayonier owns and operates a dissolving sulfite pulp and paper mill located near Port Angeles, Washington.

2. On October 11, 1994, Ecology issued to Rayonier a Notice of Penalty Incurred and Due (No. DE 94AQ-I068) (the "Penalty") in

1 the amount of \$50,000 based on alleged violations of Washington  
2 State's ambient air quality standard for sulfur dioxide (SO<sub>2</sub>), WAC  
3 173-474-100.

4 3. In the Penalty, Ecology alleged that, on July 20, 21, 22,  
5 and 27, 1994, an ambient sulfur dioxide monitoring station located  
6 at Third and Chestnut Street in Port Angeles recorded 11  
7 violations of the ambient hourly SO<sub>2</sub> standards of 0.25 ppm and  
8 0.40 ppm. Those standards state:

9 Sulfur oxides in the ambient air, measured as  
10 sulfur dioxide shall not exceed the following  
values:

11 (1) Four-tenths parts per million (0.4  
PPM) by volume average for a one-hour period  
more than once per one-year period.

12 (2) Twenty-five one-hundredths parts per  
13 million (0.25 PPM) by volume for a one-hour  
period more than twice in a consecutive seven-  
14 day period.

15 WAC 173-474-100(1) & (2).

16 4. Based on these alleged exceedances of Washington's SO<sub>2</sub>  
17 standards, Ecology determined that emissions from Rayonier's Port  
18 Angeles facility were the source and cause of the alleged  
violations.

19 5. On November 14, 1994, filed this appeal of the Penalty.

20 6. Ecology and Rayonier wish to settle this appeal without  
21 incurring the expense, uncertainty and delay incident to further  
22 litigation.

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27 STIPULATION AND  
28 AGREED ORDER OF DISMISSAL - 2

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1 copies of documents verifying that full payment has been made and  
2 received by the organization proposed for conducting the project.  
3 If Rayonier fails to comply with this paragraph, Rayonier shall be  
4 subject to the penalty amount of \$5,000 and such penalty amount  
5 shall be immediately due to Ecology.

6 3. Fuel Use. In addition, Rayonier will be limited to the  
7 use of fuel oil with sulfur content of less than or equal to 1.1%  
8 sulfur at its Port Angeles facility.

9 4. Reporting Requirements. Beginning on September 1, 1995,  
10 Rayonier will submit to Ecology a quarterly report with the  
11 following information:

12 a. Total chloride concentrations in stack emissions from  
13 the hog fuel boiler stacks in milligrams per standard dry cubic  
14 foot ("SDCF").

15 b. Change in total quarterly hog fuel consumption  
16 calculated as follows:

17 
$$\Delta HF = HF_{Average} - HF_{Quarter}$$

18 Where:

19  $\Delta HF$  = Change in quarterly hog fuel consumption  
(in bone dry metric tons ("BDMT"))

20  $HF_{Average}$  = Average quarterly hog fuel consumption  
21 for the 5-year period 1990 to 1994 (in  
BDMT).

22  $HF_{Quarter}$  = Total hog fuel consumed for previous  
23 quarter (in BDMT).

1 c. Change in total quarterly fuel oil consumption for  
2 boilers #4, #5, and #6 calculated as follows:

3 
$$\Delta FO = FO_{Average} - FO_{Quarter}$$

4 Where:

5  $\Delta FO$  = Change in quarterly fuel oil consumption  
6 (in barrels).

7  $FO_{Average}$  = Average quarterly fuel oil consumption  
8 for the 5-year period 1990 to 1994 (in  
9 barrels).

10  $FO_{Quarter}$  = Total fuel oil consumed in previous  
11 quarter for boilers #4, #5, and #6 (in  
12 barrels).

13 5. Incorporation into Operating Permit. The conditions in  
14 paragraphs 3 and 4 of this Stipulation shall be incorporated into  
15 the operating permit for the Port Angeles facility when such  
16 permit is issued to the facility under Chapter 173-401 WAC.

17 6. No Admission of Liability. By entering into this  
18 Stipulation, Rayonier does not admit liability for any of the  
19 alleged violations cited in Penalty No. DE 94AQ-I068, nor does  
20 Rayonier agree that the Penalty imposed was reasonable or lawful.  
21 Furthermore, Rayonier does not admit to any conclusion of fact or  
22 law alleged by Ecology in this matter.

23 7. Dismissal. The parties hereby agree that this matter  
24 shall be dismissed with prejudice and without fees or costs to any  
25 party.  
26

1 HELLER EHRMAN WHITE & MCAULIFFE

2

3 By: Andrew M. Kenefick  
4 Andrew M. Kenefick WSBA #18374  
Attorneys for Rayonier Inc.

3/13/95  
Date

5

6 CHRISTINE O. GREGOIRE  
7 Attorney General

8

9 By: Mary Sue Wilson  
10 Mary Sue Wilson WSBA #19257  
Assistant Attorney General  
11 Attorneys for Washington State  
Department of Ecology

3/15/95  
Date

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STIPULATION AND  
AGREED ORDER OF DISMISSAL - 6

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ORDERED that the parties' Stipulation is entered as an Order of this Board and this appeal (PCHB No. 94-261) is dismissed with prejudice and without fees or costs to any party.

DONE at Lacey, Washington, this 20th day of March, 1995.

Robert V. Jensen, Chair

Richard C. Kelley, Member

James A. Tupper, Jr., Member